

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED SEP 19 2012

DAVID LUSICK : CIVIL ACTION
v. :
CITY OF PHILADELPHIA, et al. : NO. 12-5150

M E M O R A N D U M

DAVIS, J.

SEPTEMBER 18th, 2012

Plaintiff, an inmate, is seeking to bring a civil action without prepayment of fees. Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

There are no allegations in plaintiff's complaint that would suggest that he was in imminent danger of serious physical injury at the time that this action was filed. Furthermore, prior to the filing of the instant case, plaintiff filed three or more actions, which were dismissed as frivolous or for failure to state a claim upon which relief may be granted.¹

¹ In the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 09-5581, was dismissed pursuant to 28 U.S.C. § 1915A by Order dated December 3, 2009, and that dismissal was affirmed on appeal by Order of the United States Court of Appeals dated April 29, 2010. By Order dated July 26, 2011, the Third Circuit dismissed plaintiff's second appeal pursuant to 28 U.S.C. § 1915(e)(2)(B). In Civil Action No. 05-1277, United States District Court for the Middle

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CLERK OF COURT

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied.

District of Pennsylvania dismissed plaintiff's complaint for failure to state a claim upon which relief may be granted by Order dated September 5, 2006.